Calendar No. 383

100TH CONGRESS *1st Session*	SENATE	REPORT 100-202

ACCEPTING THE FINDINGS AND IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1009

ACCEPTING THE FINDINGS AND IMPLEMENTING THE RECOMMENDATIONS OF THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

OCTOBER 20 (legislative day OCTOBER 16) 1987 Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

19-010 WASHINGTON : 1987

S403-8

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Mr. GLENN, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1009]

The Committee on Governmental Affairs, to which was referred the bill (S. 1009) to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends the bill, as amended, do pass.

I. SUMMARY AND PURPOSE

The purpose of S. 1009 is to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians. The Commission was created by Congress in 1980 to examine the facts and make recommendations concerning the United States Government's wartime relocation and internment of citizens and resident aliens of Japanese ancestry. The Commission also reviewed the circumstances surrounding the evacuation of the Aleutian and Pribilof Islands and relocation of Aleut civilians. The Commission submitted its findings and recommendations to Congress in the form of a report entitled *Personal Justice Denied*.

In summary, S. 1009, as amended, has three titles.

Title I contains an official apology to those citizens and resident aliens of Japanese ancestry who were evacuated, relocated and interned during World War II.

Title II establishes the Civil Liberties Public Education Fund ("Education Fund"), which provides for individual payments of $20,000 to eligible individuals of Japanese ancestry who were confined, held in custody or otherwise deprived of liberty during World War II as a result of the Government's exclusion, relocation and detention policy (There are approximately 60,000 eligible individuals). The Education Fund will also be used to sponsor research and public educational activities so that the causes and circumstances of the relocation will be remembered and better understood. Title II also requests the Justice Department to review cases in which living United States citizens or permanent resident aliens of Japanese ancestry received criminal convictions during the relocation period, Finally, Title II requires agency review of applications for restitution of positions, status or entitlements lost during the relocation period.

Title III authorizes compensation to the Aleuts for their losses suffered when they were evacuated from their island homes. It establishes the Aleutian and Pribilof Islands Restitution Fund ("Restitution Fund") out of which will come the following: individual payments of $12,000 to surviving Aleut evacuees (There are approximately 450 eligible Aleuts); expenditures that will benefit the general welfare of the affected Aleut villages, *inter alia*, by assisting the needy, elderly, disabled, or severely ill persons and providing scholarship aid to needy students; payment to restore church property that was lost, damaged or destroyed; and monetary compensation to the Aleuts for the loss of Attu Island. This land is presently designated a wilderness area by section 702(1) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417). The monetary compensation will be made to make restitution for the loss in lieu of actually returning the Island to the Aleuts.

II. Background

A. Evacuation from the West Coast of United States Citizens and Resident Aliens of Japanese Ancestry

Following Japan's December 7, 1941 unprovoked attack on Pearl Harbor (and the subsequent attacks on the Philippines, Wake and Midway Islands, Hong Kong and the Malay Peninsula), in the midst of legitimate concern about American losses in the Pacific, a great wave of fear and hysteria swept the West Coast, culminating in calls for the immediate exclusion of all individuals of Japanese ancestry from the West Coast.[1]

President Franklin Roosevelt signed Executive Order 9066 on February 19, 1942. The Order gave the Secretary of War, and the military commanders to whom he delegated authority, the power to exclude "any and all persons" from designated areas in order to provide security against sabotage and espionage. President Roosevelt relied almost exclusively on Secretary of War Henry Stimson's recommendations in issuing this Order. At that time, Attorney

[1] Immigration from Japan had been severely restricted in 1908 and entirely prohibited in 1924 with passage of the Oriental Exclusion Act. The 1924 Act barred Japanese immigrants from becoming United States citizens, although their children born in this country were citizens by birth.

General Francis Biddle unsuccessfully argued that the exclusion of ethnic Japanese from the West Coast was unnecessary. In addition, other individuals with relevant intelligence responsibility who believed that the ethnic Japanese posed no threat to national security, including J. Edgar Hoover, were either ignored or did not make their opinions known to the President.

In March 1942, Public Law 77-503 was enacted to grant the Federal Government authority to enforce compliance with directives issued according to the Executive Order. The War Department began issuing "Civilian Exclusion Orders" that same month. These orders covered curfews, exclusion from designated military areas, and other matters. After a period involving "voluntary" resettlement, one such order required the mandatory evacuation from the West Coast of all individuals of Japanese ancestry.

Under this order, individuals were taken to Assembly Centers and then sent to various relocation centers located in the interior of the country. No hearings were held to determine an individual's loyalty prior to evacuation. This was the beginning of the relocation and detention for periods up to four years of 120,000 individuals of Japanese ancestry (approximately 77,000 were American citizens and the remainder were legal and illegal resident aliens).

On very short notice (in some cases as little as 72 hours), families were forced to leave their homes and all belongings, except what they could carry. Most evacuees sold or leased their real estate and business holdings at extremely low prices, and almost all incurred substantial economic losses due to the evacuation.

The majority of the evacuated individuals lived in the relocation centers for the remainder of the war. Camp living conditions were Spartan. The detention caused many kinds of personal injuries which remain difficult to measure: the stigma placed on those who fell under the exclusion and other military orders; deprivation of liberty; the psychological impact of exclusion and detention; the breakdown of family structure; loss of earnings; and physical illness or injury. Approximately 35,000 evacuees were permitted to leave the relocation centers after signing a loyalty oath, by joining the Army, attending college outside the West Coast, or accepting private employment outside the West Coast. The exclusion policy was not formally ended until December 1944.[2] The last camp was closed in January 1946. Those of Japanese ancestry who lived outside the West Coast area were never subject to the relocation.

During the period when the relocation and detention was occurring, the Supreme Court heard several challenges to the legality of orders issued under the authority of Executive Order 9066. In *Hirabayashi* v. *U.S.*, 320 U.S. 81 (1943) and *Yasui* v. *U.S.*, 320 U.S. 115 (1943), the Court held that it was within the constitutional authority of Congress and the Executive Branch, acting together, to prescribe a curfew as an emergency measure to meet the threat of sabotage and espionage, even if the curfew applied only to persons of Japanese ancestry. In *Korematsu* v. *U.S.*, 323 U.S. 214 (1944), the Court upheld the exclusion of persons of Japanese ancestry from

[2] In May 1944, the Secretary of War had informed President Roosevelt and the Cabinet of his position that the exclusion no longer had a military justification. However, the President was unwilling to act before the first Cabinet meeting after the November 1944 elections.

the West Coast on the basis of military security as a constitutional exercise of executive authority to prevent sabotage and espionage.

In 1983, a class action suit was brought against the United States on behalf of those evacuated under Executive Order 9066, *Hohri* v. *U.S.* The plaintiffs alleged 22 causes of action based on constitutional claims, tort claims, breach of contract, violation of fiduciary duties, and Tucker Act violations.

A Federal district court granted the motion of the United States to dismiss all the causes of action. 586 F. Supp. 796 (D.C. 1984). The plaintiffs appealed, and in January 1986, the United States Court of Appeals for the District of Columbia ruled that the Court of Appeals had jurisdiction over the claims and that individuals of Japanese descent who lost property because of their exclusion from the West Coast during World War II have a cause of action against the United States for their losses, although this ruling was not extended to those who received awards for property losses under the 1948 Evacuation Claims Act. 782 F. 2d 227 (D.C. Cir. 1986). The Court rules against the other causes of action and remanded the case to the lower court for determination whether plaintiffs can establish their constitutional and Tucker Act claims. Both plaintiffs and the United States appealed to the Supreme Court and the Court agreed to consider the jurisdictional dispute and the plaintiffs' successful Tucker Act claims.

On June 1, 1987, the Supreme Court remanded the *Hohri* case to the U.S. Court of Appeals for the Federal Circuit, the court with exclusive appellate jurisidiction over Tucker Act claims. The Court made no substantive decision on the merits of claims for damages.

B. EVACUATION OF THE ALEUTS FROM THE ALEUTIAN AND PRIBILOF ISLANDS

During World War II, another relocation of civilians took place which resulted in much loss and suffering. When the Japanese attacked the two westernmost Aleutian Islands, the U.S. military evacuated approximately 900 Aleuts from the Pribilofs and from many islands in the Aleutian chain.

Though this action was militarily justified, at issue is the deplorable treatment of the Aleuts during the relocation period. They were transported to southeastern Alaska and housed in camps at abandoned mines or canneries. Lack of medical care and adequate food contributed to extensive disease and death. When the surviving Aleuts returned to their homes and villages, they were confronted with a scene of wartime destruction. Many homes and churches had been destroyed or vandalized, and much of the damage had been done by United States military personnel.

C. COMMISSION ON WARTIME RELOCATION AND INTERNMENT

In 1980, the United States Congress established a Commission on Wartime Relocation and Internment of Civilians pursuant to P.L. 96-317, 94 Stat. 964, to review the facts and circumstances surrounding Executive Order 9066, to assess the impact of the Executive Order on American citizens and permanent resident aliens, to review the relocation and detention of the Aleuts, and to recommend appropriate remedies. After 20 days of hearings and testimo-

ny from over 750 witnesses, in December 1982 the Commission released its report, *Personal Justice Denied*. Several months, later, in June 1983, the Commission issued its recommendations.

(1) American Citizens of Japanese Ancestry and Resident Japanese Aliens

The Commission found that for persons of Japanese ancestry, "the promulgation of Executive Order 9066 was not justified by military necessity, and the decisions which followed from it . . . were not driven by an analysis of military conditions." [3] Instead, the Commission concluded that "the broad historical causes which shaped these decisions were race prejudice, war hysteria and a failure of political leadership." [4] The Commission estimated that, as a result of exclusion and detention, in 1945 the evacuees lost between $108 and $164 million in income and between $41 and $206 million in property for which no compensation was ever made. (The Commission estimated that in 1983 dollars, the total losses of income and property fall between $810 million and $2 billion.)

The Commission recommended the following actions: (1) an official apology on behalf of the Federal government for the grave injustice done; (2) pardons for those who were convicted of violating the statutes imposing a curfew on American citizens on the basis of their ethnicity and requiring the evacuation of ethnic Japanese; (3) review by executive agencies of applications from eligible individuals for the restitution of positions, status or entitlements lost in whole or in part because of the relocation; (4) the establishment of a special foundation to research and publicize this issue; and (5) establishment of a fund to provide personal redress to those who were excluded. After evaluating the estimated losses and the level of compensation that would be reasonable, the Commission decided that $20,000 per eligible individual would be appropriate.[5]

These proposed remedies were made in light of the fact that in the forty years since World War II ended, the United States Government has taken several steps to partially compensate those individuals of Japanese ancestry for the losses they suffered:

> The 1948 Japanese American Evacuation Claims Act established a procedure for individuals of Japanese ancestry to claim real and personal property losses that occurred as a result of exclusion and evacuation. No claims were allowed for loss of liberty, lost income or pain and suffering. The total amount awarded under the Act was approximately $38 million. However, it did not fully compensate for loss of property. As amended, the Act only compensated for three-fourths the total value of approved losses or $2,500, whichever was less. Moreover, elaborate proof of loss was required. Therefore, many former internees, having lost tax records and other documents as a consequence of the relocation, never even applied for compensation.

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[3] *Personal Justice Denied*. Report of the Commission on Wartime Relocation and Internment of Civilians, December 1982, p. 18.

[4] Ibid., p. 18.

[5] Commissioners Daniel E. Lungren, M.C., and William M Marutani dissented from this recommendation.

In 1972, the Social Security Act was amended so that those of Japanese descent over the age of 18 who spent time in relocation camps would be deemed to have earned and contributed to the Social Security system for work performed in the camps.

In 1978, federal civil service retirement provisions were amended to allow civil service retirement credit for the time spent in detention after the age of 18.[6]

(2) Aleuts Relocated from the Aleutian and Pribilof Islands

With regard to the Aleuts, the Commission found that although there were sound military reasons for relocating them, "there was no justification for the manner in which the Aleuts were treated in the camps in southeastern Alaska." [7] The Commission found that approximately ten percent of the Aleut evacuees died during the two to three years they spent in the camps. Moreover, the Commission found that the Government has failed to compensate the Aleuts for their damaged or destroyed houses, churches, and material goods.

The Commission made five recommendations: (1) the establishment of a fund for the beneficial use of affected Aleut communities; [8] (2) individual payments to the surviving Aleuts who were evacuated; (3) restoration of the churches damaged or destroyed in the course of World War II; (4) funding for the clean up of wartime debris; and (5) conveyance of Attu Island to the Aleuts. In view of the passage of time, the Commission decided that a claims procedure, whereby individuals would have to prove particular losses, would not be an effective method of compensation.[9]

III. Legislative Initiative

With one notable exception, the Commission's recommendations constitute the basis for S. 1009, introduced by Senator Spark M. Matsunaga on April 10, 1987, with 71 cosponsors. While the Commission recommended that Attu Island be handed back to the Aleuts, the bill instead proposes monetary compensation for this loss.

The Subcommittee on Federal Services, Post Office and Civil Service of the Committee on Governmental Affairs held a hearing on S. 1009 on June 17, 1987. The following individuals provided testimony:

Senator Spark M. Matsunaga, State of Hawaii
Senator Daniel K. Inouye, State of Hawaii
Senator Alan Cranston, State of California
Senator Brock Adams, State of Washington
Senator Frank H. Murkowski, State of Alaska

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[6] In addition to these measures, in 1976, President Gerald Ford formally rescinded Executive Order 9066, stating that the wartime measures taken under the Order were a "setback to fundamental principles" and involved "national mistakes."

[7] *Personal Justice Denied*, p. 23.

[8] Commissioner Daniel E. Lungren, M.C., dissented from the first and second recommendations.

[9] The Committee notes that on August 7, 1944, President Roosevelt approved the allocation of $200,000 from Federal funds for the rehabilitation of the Aleutian and Pribilof Islands. The allocation included $25,000 for all damages suffered by the Aleuts.

Harry Kajihara, National President and Grayce Uyehara, Executive Director, Washington Office, Japanese American Citizens League

Mike M. Masaoka, President, Go For Broke Nisei Veterans Association

William Hohri, President, National Council on Japanese American Redress

John Kirtland, Special Counsel, Bishop, Cook, Purcell & Reynolds

Agafon Krukoff, President, The Aleut Corporation

Dimitri Philemonof, Executive Director, Aleutian/Pribilof Islands Association, Inc.

On July 21, 1987, the Subcommittee recommended S. 1009, with an amendment in the nature of a substitute, to the full Committee.

On August 4, 1987, the full Committee considered S. 1009 as recommended by the Subcommittee. During its consideration, the Committee adopted an amendment offered by Senator Roth to stretch the authorization of appropriations contained in the bill over a five fiscal year period. The Committee then reported the bill favorably to the Senate with an amendment in the nature of a substitute by voice vote.

The amendment in the nature of a substitute that is recommended by the Committee includes the following modifications to S. 1009 as it was introduced:

(A) Regarding Title II, the amendment:

(1) Clarifies, in section 201(1), that an "eligible individual" must be a United States citizen or permanent resident alien on the date of enactment of the Act.

(2) Clarifies, in Section 202(a), that the Attorney General is to review the criminal convictions only of those individuals living on the date of enactment of the Act.

(3) Stretches the total authorization of $1.3 billion for the Education Fund established in Section 204 over a five-year period beginning in fiscal year 1989.

(4) Adds Section 205(f), which clarifies that payments under the Act, for Federal tax purposes, shall be considered as damages for human suffering, and shall not be included in determining eligibility to receive certain income-based Federal benefits.

(5) Adds Section 207, which provides that no authority created by Title II becomes effective until provided for by appropriations. In addition, no new budget authority is effective until fiscal year 1989 and thereafter.

The Committee recognizes that the issue of redress for those citizens and resident aliens of Japanese descent who were relocated during World War II is a controversial one. The Committee concluded that to uphold the deeply held American belief in equality and liberty for all persons, regardless of race, sex, color or national origin, it is appropriate to adopt the Commission's recommendation for remedies in several forms as an act of national apology. In particular, the Committee believes that the restitution payments signal our Nation's clear commitment to acknowledging the harm that can result when national passion is directed at primarily American-born citizens with certain racial characteristics. The ulti-

mate goal of this legislation is to prevent the occurrence of another similar event.

(B) Regarding Title III, the amendment:

(1) Provides, in Section 304, that the Secretary of the Interior has the authority to appoint the Administrator of the Restitution Fund.

(2) Provides, in Section 305(c), for direct monetary compensation for the Aleut church property lost, damaged or destroyed during World War II.

(3) Provides, in Section 307, that in lieu of creating a Federal surplus property bidding account, the Aleuts shall receive direct monetary compensation for the value of the Attu Island land previously used by the Aleuts.

IV. Department of Justice Objections

The Subcommittee on Federal Services, Post Office and Civil Service requested the Justice Department to address S. 1009 at its June hearing. Assistant Attorney General Richard Willard was unable to attend the hearing. The Department did submit a statement for the hearing record.

The Department of Justice submits that the United States Government has officially recognized that much unjustified hardship came about as a result of the internment program. On behalf of the Administration, however, it opposed enactment of S. 1009 as it was originally introduced. In the statement submitted to the Subcommittee, Assistant Attorney General Richard Willard cited the following specific objections to S. 1009.

With regard to Title II, the Justice Department believes that the pardon recommendation is both unnecessary and a potential infringement upon the authority of the President. The Department also opposes individual payments under the Education Fund on the ground that the 1948 Japanese-American Evacuation Claims Act provided sufficient compensation for the injured parties.

The Committee notes that S. 1009 does not require the President to pardon any individual. Rather, the bill requests that the Attorney General review appropriate cases and, where merited by the circumstances, the Attorney General is requested to recommend to the President a pardon. The review of the cases and the actual recommendation for a pardon is left entirely within the Executive Branch. Regarding the 1948 Evacuation Claims Act, the Commission found that the Act did not fully compensate individuals for those real and personal property claims allowed. That Act was not intended to be a comprehensive redress measure.

Justice has several objections to Title III, the Aleut section of the bill. First, Justice states that because the Administrator of the Resitution Fund "would be charged with the performance of a significant amount of administrative responsibilities under a federal statute," the Administrator must be appointed by the Executive Branch, not the Congress. The Justice Department also states that the provision in Section 305 requiring a direct Federal role in the restoration of church property raises First Amendment questions.

S. 1009 has been amended to address these two Justice Department concerns. The bill now provides for direct monetary compen-

sation for the Aleuts' lost church property, thus removing a direct Federal role. It also provides for the appointment of the Administrator of the Restitution Fund by the Secretary of the Interior.

V. CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 17, 1987.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1009, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

JAMES BLUM
(For Edward M. Gramlich, Acting Director).

1. Bill number: S. 1009.

2. Bill title: A bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs, August 4, 1987.

4. Bill purpose: Title II of S. 1009 would authorize a tax-free $20,000 restitution payment to each person of Japanese descent relocated, interned or otherwise deprived of liberty during World War II as a result of actions aimed at restricting or detaining persons of Japanese descent. To cover the restitution payment, S. 1009 would authorize the appropriation of $500 million in fiscal year 1989, $400 million in 1990, $200 million in 1991, and $100 million in each of the years 1992 and 1993, for a total of $1.3 billion, to the Civil Liberties Public Education Fund. The bill would establish a board of directors to oversee the fund, but the Attorney General would be responsible for identifying, locating, and making the payment to eligible individuals. S. 1009 would authorize the board of directors to make disbursements from the fund for cultural and historical programs of benefit to Japanese-American communities. Anyone accepting the restitution payment would be required to extinguish any claim against the federal govenment related to wartime relocation and internment. The bill would also require the Attorney General to review all convictions under the laws enacted during World War II to detain or restrict people of Japanese descent, and for all federal agencies to review applications from people interned to restore positions or benefits lost because of the wartime actions.

Title III of S. 1009 is the Aleutian and Pribilof Islands Restitution Act. This title would create the Aleutian and Pribilof Islands Restitution Fund, administered by the Secretary of the Interior,

and contains specific authorizations of appropriations of $6.4 million to the fund and indefinite authorizations for restitution payments and administrative expenses. Title III would require the Secretary to provide $12,000 tax-free restitution payments to all residents of these islands relocated during World War II. Other monies in the fund would be transferred at specific times to a trust administered by the Aleuts. Title III would also establish the Attu Island Restitution Program, which would authorize the appropriation of up to $15 million to the Aleut Corporation, a for-profit regional corporation, to compensate the Aleuts for the loss of Attu Island.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Title II					
Estimated authorization level		502	402	202	102
Estimated outlays		502	402	202	102
Title III					
Estimated authorization		27	1		
Estimated outlays		27	1		
Total					
Authorization level		529	403	202	102
Estimated outlays		529	403	202	102

Basis of Estimate

This estimate assumes that the full amounts authorized would be appropriated prior to the start of each fiscal year. The outlay estimates are based on information provided by a number of sources, including the Department of Justice and the Japanese-American Citizens League. The bill specifies that no payments could be made in advance of appropriations.

Title II

According to actuarial data provided by the Japanese-American Citizens League, approximately 60,000 people would be eligible for the $20,000 restitution payment, which would result in outlays of about $1.2 billion over the life of the restitution program. CBO expects a majority of people eligible for payment would be located during the first year, and all of the eligible people would receive the restitution payment by the end of 1992. Because of this, the total payments in each year would equal the available budget authority, assuming appropriation of the authorized amounts. Any money remaining in the fund would be spent by the board of directors on programs that benefit Japanese-American communities.

Under S. 1009, the Attorney General would be responsible for locating the people eligible for the restitution payment, but would not be allowed to deduct any administrative costs from the fund. In a letter dated April 25, 1986 to the House Committee on the Judiciary, the Assistant Attorney General wrote that this task "could require the Department [of Justice] to commit a considerable amount of manpower and resources to the search for eligible recipients." The resources that the Department of Justice (DOJ) would require

are difficult to predict. Most people eligible for the payment would probably notify the DOJ, or would respond to a public information campaign. Nevertheless, the DOJ would have to devote some administrative resources to this effort. The above table includes about $2 million per year for administrative costs, assuming that the restitution program could be run by a staff of 20–30 people. This estimate assumes that over 90 percent of the people eligible for payment would voluntarily notify the DOJ and that program costs would be comparable to similar efforts by the department, such as the alien legalization program run by the INS.

The provision requiring people accepting the restitution payment to extinguish any claims against the federal government could somewhat offset the costs of the bill. For example, a class-action suit on behalf of interned Japanese-Americans, *United States* v. *Hohri,* is currently pending in federal court. In that case, the plaintiffs are seeking a $10,000 payment for each person interned during World War II. Because of the uncertainty as to the results of these proceedings, however, CBO cannot estimate what payments, if any, would be made under current law, and thus, what savings, if any, would result from this provision.

Based on information provided by the DOJ, CBO does not expect that the provisions requiring federal agencies to review applications and convictions to result in a significant cost to the federal government, because the DOJ has already reviewed many of these actions.

Title III

Title III would authorize appropriations of nearly $28 million, $13 million to the Aleutian and Pribilof Island Restitution Fund and $15 million for the Attu Island Restitution Program. The outlay estimate is based on information provided by representatives of the Aleut communities and assumes that the full amounts authorized would be appropriated prior to the start of each fiscal year.

CBO estimates that the indefinite authorizations contained in Title III—covering the restitution payments and administrative expenses—would authorize appropriations of $6.5 million to the fund. CBO expects that the approximately 500 people would be eligible for the $12,000 restitution payment, which would require an appropriation of about $6 million. Administrative expenses would be about $500,000. In addition to these amounts, Title III contains specific authorization to the fund of $6.4 million; therefore, the total authorization of appropriations to the fund would be an estimated $12.9 million. CBO assumes that all of these funds would be appropriated in 1989, except for the $1.4 million for restoration of church property, which is assumed to be appropriated in 1990 after an inventory of the damages is completed. The bill would provide one year for this inventory.

CBO expects most of the outlays, roughly $27 million, to occur during 1989. Outlays from the Aleutian and Pribilof Island Restitution Fund would occur when the Secretary of the Interior transfers money to a trust established by the Secretary and administered by the Aleuts, and when restitution payments are awarded to eligible individuals. We expect that all restitution payments would be

awarded during 1989 because of the relatively small number of eligible recipients and the cohesiveness of the Aleut communities. This estimate assumes that the $5 million appropriation for Aleut community programs would be transferred during 1989, provided that certain activities specified in the bill are completed during 1988. The $15 million appropriation for payment to the Aleut Corporation for the Attu Island Restitution Program would also be spent during 1989, after the Secretary has completed a study of the acreage in question. CBO estimates that the $1.4 million appropriation for church restoration would be expended during 1990, assuming completion of an inventory of the damages during 1989. This estimate also assumes the appropriation for administrative expenses would be spent over three years.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

Previous CBO estimate: On July 14, 1987, CBO prepared a cost estimate for H.R. 442, the Civil Liberties Act of 1987, as ordered reported by the House Committee on the Judiciary, June 1987. The differences between that earlier estimate and this one reflect the differences between the two bills.

9. Estimate prepared by: Michael Sieverts (226–2860).

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

VI. Regulatory Impact of Legislation

In accordance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the following statement of the regulatory impact of S. 1009 is made.

Regarding Title II, the adoption of this legislation would result in an increase in regulation and paperwork for the Attorney General. Title II makes the Attorney General responsible for contacting the eligible individuals and paying them the compensation. No administrative costs incurred by the Attorney General can be deducted from the Education Fund. Records of the relocation centers, including a roll of those who were incarcerated, were placed in the National Archives and may be consulted. The Committee notes that the Japanese American community is well informed on the issues surrounding S. 1009 and the particular newspapers and organizations that serve this community will greatly assist the Attorney General in notifying the eligible individuals as to the availability or redress.

Regarding Title III, the Secretary of the Interior will have some oversight duties. The Secretary will make an annual report on the financial condition of the Restitution Fund. The Commitee notes that the Secretary shall terminate this Fund three years after date of enactment. The Secretary shall have oversight over the actions of the Administrator. Finally, the Committee notes that the land valuation process which is required of the Secretary of the Interior, whereby the Aleuts are monetarily compensated on a per acre basis for the loss of Attu Island, is one commonly done in the State of Alaska.

VII. Changes in Existing Law

Rule XXVI of the Standing Rules of the Senate requires that changes in existing law made by the bill, as reported, be detailed in the Committee Report accompanying the bill. S. 1009 will require no changes in existing law.

VIII. Section-by-Section Analysis

FINDINGS AND PURPOSE

Section 1(a) would endorse the findings of the Commission on Wartime Relocation and Internment of Civilians. In particular, the Section states that the findings of the Commission describe accurately and completely the exclusion, relocation, and internment of approximately 120,000 United States citizens and permanent resident aliens, all of Japanese ancestry. The section would make the same finding about the conclusions reached by the Commission concerning the Federal treatment of the Aleuts of the Aleutian and Pribilof Islands.

Further, according to Section 1(a), the Congress finds that the internment in the United States of permanent resident aliens, and American citizens, of Japanese ancestry was carried out without any documented acts of espionage or sabotage, or other acts of disloyalty, by any citizen or permanent resident alien of Japanese ancestry on the West Coast. Nor was there any military reason for the relocation. In fact, racial prejudice, war hysteria, and a failure of political leadership caused the internment, the bill states. Further, according to the language of the bill, Congress finds that the exclusion and relocation caused individuals of Japanese ancestry enormous damages and losses, as well as incalculable losses in education and job training, all of which resulted in significant human suffering. The evacuation and internment fundamentally violated the basic civil liberties and constitutional rights of the individuals of Japanese ancestry so affected.

In addition, under Section 1(a), Congress would fault the Federal treatment during World War II of certain Aleuts, as documented by the Commission on Wartime Relocation and Internment of Civilians. According to this section, Congress would find that the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island remained in camps under Federal control long after any potential danger from the war threatened their home villages. These were Aleuts, the text continues, relocated to temporary camps in isolated regions of southeast Alaska for their safety by the United States military because of the Japanese invasion and capture of the Aleutian Islands of Attu and Kiska. In addition, the bill states, the United States failed to provide reasonable care for the Aleuts' personal and community property while that property remained under Federal possession or control. That failure, the bill maintains, resulted in widespread illness, disease, and death among the residents of the camps.

Also under this part of Section 1(a) the Congress would find that the United States has not compensated the Aleuts adequately for the conversion or destruction of the Aleuts' personal property because of the occupation and use of that property by United States

military forces during the Second World War. Nor has the United States rehabilitated Attu village, precluding the development of Attu Island for the benefit of the Aleuts and impairing the preservation of traditional Aleut property on the island. The only remedy for injustices suffered by the Aleuts, the bill says, is an Act of Congress that provides appropriate compensation for losses attributable to the conduct of United States forces and other officials and employees of the United States.

Section 1(b) describes the purposes of the Act. Accordingly, Congress would acknowledge what the bill describes as the fundamental injustice of the evacuation, relocation, and internment of United States citizens, and permanent resident aliens, of Japanese ancestry. Consequently, the text continues, on behalf of the United States for those actions, the Act would provide an apology to those peoples. The legislation would also provide for The Civil Liberties Public Education Fund, which would finance informing the general public about the internment of the Japanese-Americans, to prevent any similar event from happening again to any ethnic group in the United States. And, the Act would make restitution to relocated Japanese Americans.

The Act would likewise make restitution to Aleuts who during World War II had been evacuated, relocated, and interned. The restitution to them would likewise be for injustices suffered and for unreasonable hardship. Moreover, restitution would also be made for property damaged or destroyed during that War, particularly community property, including community church property, taken or destroyed by United States forces during World War II. Restitution would also be provided for traditional village lands on Attu Island not rehabilitated for Aleut occupation or for other productive use after World War II.

TITLE I. RECOGNITION OF INJUSTICE AND APOLOGY ON BEHALF OF THE NATION

Under Section 101, Congress would accept the findings of the Commission on Wartime Relocation and Internment of Civilians, and recognize that a grave injustice was done to U.S. citizens and resident aliens of Japanese ancestry who had been evacuated, relocated, and interned during World War II. On behalf of the Nation, Congress would apologize to those people.

TITLE II. UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

Definition

Section 201 would define key terms used in this legislation, as follows:

A. "Eligible individual" means anyone of Japanese ancestry who is a United States citizen or permanent resident alien, living on the date of enactment of this Act,

who was enrolled on the records of the United States Government from December 7, 1941, to June 30, 1946, as being in a prohibited military zone; or

who had been held in custody, confined, or otherwise deprived of liberty or property during that period, because of one of several laws or executive orders of that period.

The laws and regulations are defined as Executive Order 9066, and the law that defined penalties for anyone violating orders to enter or leave the designated military areas (56 Stat. 173). In addition, included for purposes of this Title, are any other Executive order, Presidential proclamation, law of the United States or its agents, representatives, officers, or employees that excluded, relocated, or detained individuals because of their race.

B. "Fund": the Civil Liberties Public Education Fund, established under section 204.

C. "Board": the Civil Liberties Public Education Board of Directors, established in section 206.

D. "Evacuation, relocation, and internment period": from December 7, 1941 to June 30, 1946.

E. "Commission": the Commission on Wartime Relocation and Internment of Civilians established by Public Law 96-317.

Criminal Convictions

Section 202(a) would ask the Attorney General to review any case in which a United States citizen, or permanent resident alien, of Japanese ancestry, who is living on the date of enactment, was convicted of violating the laws of the United States during the internment period. These cases would include convictions for violating military orders. According to the section the convictions must have resulted from charges filed against anyone falling under the purview of this legislation—when the persons convicted had been evacuated, relocated, or interned during World War II.

Under Section 202(b), based on the Attorney General's review (as described in the previous paragraph), the Attorney General would be asked to make recommendations for pardons to the President. Eligible for such recommendations would be Japanese Americans whose conviction during the War was found by the Attorney General to derive from a refusal. That is, they must have been convicted for refusing to obey a law during the War that discriminated against them because of their race or ethnicity.

Section 202(c) would ask the President to offer pardons to those individuals recommended by the Attorney General.

Consideration of Commission Findings

Section 203 would help Japanese Americans seeking the restitution of any Federal position, status or entitlement lost as a result of Government actions during the relocation period. The section would require the United States government departments and agencies to review applications of Japanese Americans who had been interned, for full restitution of the positions, status, or entitlement with liberality, that they had enjoyed. The section would direct the departments and agencies to give full consideration to the historical findings of the Commission on Wartime Relocation and Internment of Civilians as well as the findings of this Act.

Trust Fund

Section 204(a) would establish a Civil Liberties Public Education Fund. The U.S. Treasury Department would keep and administer the fund. Amounts in the Fund would be invested in accordance with section 9702, Title 31, United States Code, and would be disbursed only by the Attorney General under provisions of section 205, and by the Board of Directors under section 206. For the purposes of the Fund, see the description below of Section 206(b).

Section 204(b) would authorize $1,300,000,000 to be appropriated to the Fund in several diminishing steps. $500,000,000 would be appropriated for Fiscal Year 1989, $400,000,000 for FY 1990, $200,000,000 for FY 1991, $100,000,000 for FY 1992, and the remaining $100,000,000 for FY 1993.

Restitution

Section 205(a) would provide for locating and paying eligible individuals, under this law. The Attorney General, assisted by the Board of Directors of the Civil Liberties Public Education Fund, would locate each eligible individual. To do the locating, the Attorney General would use records already possessed by the Federal government. Through publicity the Attorney General would encourage each eligible person to submit his or her current address to the Department of Justice. Out of the Fund, the Attorney General would pay each eligible person $20,000. Any or all of the $20,000 refused by an eligible person would be put back into the Fund and could not be given to that person later.

Section 205(b) would provide for priority of payments to eligible individuals. The Attorney General is encouraged to make payments in order of date of birth, the oldest receiving payment first.

Section 205(c) applies to non-residents of the United States. The section authorizes the Attorney General to use any available resources or facility to locate any eligible individual residing outside the United States.

Section 205(d) would exempt the Fund, and individual payments, from any costs incurred in administering this section.

Section 205(e) would govern the extinguishment of claims. The claims of an eligible person against the United States shall be extinguished in one of two ways—either ten years after the legislation became law, or when the eligible person had received the total payment due under the legislation, whichever date came first. In the latter case, any eligible individual who accepts payment of $20,000 must waive any further claim against the government stemming from the relocation and internment. Nothing in this section is intended to preclude the pending class action, *Hohri* v. *United States*, from proceeding to final judgment. S. 1009 would allow the *Hohri* class members, as well as other eligible individuals, to have the full ten-year period in which to decide whether to accept or reject payment under the provisions of Title II.

Section 205(f) would clarify the tax treatment of payments under other laws. The legislation states that the Internal Revenue laws of the U.S. will treat amounts paid to an eligible person under this section as damages for human suffering. Those sums, the legislation continues, shall not be included as income or resources to de-

termine whether or not a person was eligible to receive benefits described in section 3803(c)(2)(C) of Title 31, United States Code. So, an eligible person under this section could still apply for and receive benefits from Federal programs such as enumerated parts of Social Security, the Older Americans Act, and certain low income housing assistance, benefits, even though that person had received compensation from the law.

Board of Directors

Section 206(a) would establish a Civil Liberties Public Education Fund Board of Directors. The Board would be responsible for making disbursements from the Fund, in the ways described in this section.

Section 206(b) would provide that disbursements from the Fund would be made for several purposes only. Funds would go toward research and public educational activities about the relocation and internment, so that the relocation and internment would be remembered. Comparative studies of similar civil liberties' abuses would likewise to financed. Moreover, the Fund would support the preparation and distribution of the Commission's findings to textbook publishers, educations, and libraries.

Still other uses for the Fund would include providing funds for the general welfare of the ethnic Japanese community in the United States. This last propose would consider the effect of the exclusion and detention on the descendants of the persons evacuated, relocated, and interned. However, individual payments to compensate for loss or damages would not be made under this provision.

Under particular uses for the monies, reasonable administration expenses would be paid. That would include such expenses as incurred by members of the Civil Liberties Public Education Fund Board of Directors, the Board's Director, and its staff.

Section 206(c) would define the membership, terms of office, and some of the circumstances of the Fund's Board of Directors. The Section would provide that the Board of Directors be composed of nine members appointed by the President, by and with the advice and consent of the Senate. None of the members could be officers or employees of the Federal government, and at least five of them must be of Japanese ancestry.

Further, Section 206(c) defines the terms of office for the members of the Board. Its members would be appointed for terms of three years each, with two exceptions. Of the members first appointed, four of the nine would serve for terms of two years, as designated by the President at the time of appointment. Under the second exception, any member appointed to fill a vacancy before the expiration of his predecessor's term would be appointed only for the remainder of that term.

Under the provisions of Section 206(c) a member of the Board could serve after this term expired, until his successor had taken office. No one could be appointed to more than two consecutive terms.

This Section would also provide that members of the Board serve without pay, except for being reimbursed for necessary expenses. Section 5703 of Title 5, United States Code, would provide the criteria for the expenses that would be reimbursed. Other details of Sec-

tion 206(c) would provide that five members of the Board constitute a quorum, though a lesser number could hold hearings. Also, the members of the Board would elect their chair.

Section 206(d) would provide for the secretariat of the Board of Directors of the Civil Liberties Public Education Fund. Under this part of Section 206 the position and pay of the Board-appointed Director would be established. The Director's pay would not exceed the minimum rate for a GS–18 of the General Schedule under section 5332(a) of title 5, United States Code. Section 206(d) wold likewise have the Board appoint and fix the pay of the staff it requires. Additional personnel could be appointed by the Board without regard to number and classification of executive level positions (Section 5311(B) of title 5, U.S. Code). They could be appointed without regard to the competitive service requirements and classification of pay rates. The one exception to this appointments rule provides that compensation for the additional personnel could not exceed the rate payable under the provisions of chapter 51 and subchapter III of chapter 33 of such title relating to classification and General Schedule pay rates.

Section 206(e) provides for the Fund's administration support. The Administrator of General Services would provide the Board of Directors with such administrative support as the Board requests on a reimbursable basis.

Section 206(f) would authorize the Board to accept and use any gifts, donations, services, or property for the purposes described in Section 206(b) (disbursements from the Fund).

Section 206(g) covers accountability. The Section would require the Board, no later than twelve months after its first meeting and every twelve months thereafter, to report its activities to the President and to each House of Congress.

Section 206(h) consists of a sunset provision. Under it the Board of Directors would cease to exist no later than ninety days after the date on which the last amount remaining in the Fund was obligated to be expended from the Fund, or ten years after the enactment of this legislation. Investments would be liquidated and the receipts from them deposited in the Fund; and all monies remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

Section 207 describes controls that the legislation would apply to the Fund. The Act directs that no authority of this title can enter into contracts or make payments except to the extent, or in such amounts, as appropriations acts would provide in advance. In addition, any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

TITLE III. ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

Short Title

Section 301 states that this title can be cited as the "Aleutian and Pribilof Islands Restitution Act."

Definitions

Section 302 would define terms for the purposes of this Act as follows:

1. "Administrator" would mean the person the Secretary of the Interior designates to administer expenditures from the Aleutian and Pribilof Islands Restitution Fund.
2. "Affected Aleut villages" would mean Aleut villages in Alaska whose residents were evacuated by United States forces during World War II. They would include Akutan, Atka, Nikolski, Saint George, Saint Paul, Unalaska. Also, the law would include the Aleut village of Attu, Alaska, which was not rehabilitated by the United States for Aleut residence or other use after World War II.
3. "Association" would mean the Aleutian/Pribilof Islands Association, Inc., a nonprofit, regional corporation established for the benefit of the Aleut people, and organized under the laws of Alaska.
4. "Corporation" would mean the Aleut Corporation, a for-profit regional corporation for the Aleut region. It is organized under the laws of Alaska, and established pursuant to section 7 of the Alaska Native Claims Settlement Act (Public Law 92-203).
5. "Eligible Aleut" would mean any Aleut living when this title was enacted who, as a civilian, was relocated by the authority of the United States from his home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or to other temporary facility or location, during World War II. It would also include any Aleut who was born while his or her natural mother was subject to such relocation during that war.
6. "Secretary" would mean the Secretary of the Interior.

Aleutian and Pribilof Islands Restitution Fund

Section 303(a) would require the Secretary of the Interior to establish in the United States Treasury an Aleutian and Pribilof Islands Restitution Fund. The Fund shall consist of the amounts appropriated to it, as authorized by the provisions that describe the duties of the Administrator (Section 305) and the provisions for compensating eligible Aleuts (Section 306).

Section 303(b) would require the Secretary of Interior to hold the Fund, and to report annually to the Congress about its finances and the results of operating it during the preceding fiscal year. The annual report would also review the condition and operations expected for the Fund during the next fiscal year.

Section 303(c) would require the Secretary to invest portions of the Fund, but only in interest-bearing obligations of the United States. Such obligations would be acquired on original issue at the issue price, or by the purchase of outstanding obligations at the market price. The Secretary would invest such portion of the Fund as was not, in the Secretary's judgment, required to meet current withdrawals.

Under Section 303(d) any obligation acquired by the Fund may be sold by the Secretary at the market price.

Section 303(e) would govern credits to the Fund. The interest on any obligations held in the Fund, as well as the proceeds from the sale or redemption of any obligations, would be credited to the Fund and form a part of it.

Section 303(f) would require the Secretary to terminate the Fund three years after the Act became law or one year after all the money from the Fund had been disbursed, whichever occurred later. After the Fund's termination, the Secretary of the Interior would liquidate all its investments, and deposit the receipts from that liquidation in the miscellaneous receipts account of the Treasury.

Designation of Administrator

Section 304(a) would authorize the Secretary of the Interior, as soon as practical after this title was enacted, to designate an Administrator of the Aleutian and Pribilof Islands Restitution Fund. To do so the Secretary would offer to negotiate with the Aleutian/Pribilof Islands Association, Inc., to have the Association serve as Administrator under the terms of this title. If the agreement were struck within 90 days after this title becomes law, the Secretary may appoint the Association as Administrator. If not, the Secretary would appoint another person as Administrator under this title, after consulting with the affected Aleut village leaders and the Corporation.

Compensation for Community Losses

In Section 305(a) the Secretary of the Interior would make restitution, out of the monies from the Fund, for certain Aleut losses sustained in World War II.

To do so, under Section 305(b) the Secretary would establish a trust of $5,000,000, for the benefit of the affected Aleut communities and for other purposes. The trust would be established under the laws of Alaska. No more than seven trustees, designated by the Secretary, would maintain and operate the trust. After consulting with the Administrator, with representatives of the affected Aleut villages, and with the Corporation about the list of prospective trustees—each eligible village can submit as many as three—the Secretary would designate the seven.

Also under Section 305(b) the trustees would maintain and run the trust as eight independent and separate accounts. One account would be for the independent benefit of the wartime Aleut residents of Attu and their descendants. Each of the six surviving, affected Aleut villages would receive an account—Atka, Akutan, Nikolski, Saint George, Saint Paul, and Unalaska. Finally, the remaining account would be for the independent benefit of Aleuts are deserving but would not benefit directly from the other seven accounts.

Under subsection (b)(3) the Secretary of the Interior, upon the advice of the trustees of the Aleutian and Pribilof Islands Restitution Fund, would determine which Aleuts would receive the benefits from the eighth account. In this eighth account, the trustees would credit an amount equal to five percent of the principal amount credited by the Secretary to the trust. The remaining principal amount would be divided among the other seven accounts.

The division would be made in proportion to the June 1, 1942, Aleut civilian population of the village for which each such account would be established, as compared to the total civilian Aleut population on June 1, 1942, of all affected Aleut villages.

In general, the Aleutian and Pribilof Islands Restitution Fund would be administered consistent with the laws of Alaska. It would also be administered as prescribed by the Secretary of the Interior, after the Secretary consulted with representative, eligible Aleuts, the residents of affected Aleut villages, and the Administrator.

Finally, appropriations of $5,000,000 would be authorized under Section 305(b) to the Fund to carry out the purposes of this subsection.

Section 305(c) would provide for compensation for damaged or destroyed church property. In particular, the Administrator of the Fund would be authorized to inventory and assess church property damaged or destroyed in Aleut villages affected during World War II. The Administrator would consult with the trustees of the Trust, elders of the affected villages, congregation leaders, and the clergy when making the inventory and assessment. Within a year after this title became law, the Administrator would submit the inventory and assessment to the Secretary of Interior, with an estimate of the present replacement value of lost or destroyed furnishings and artifacts.

The Section would direct the Secretary of the Interior to review the inventory and assessment. He would pay the Trust amounts that he reasonably calculated would compensate affected Aleut villages for church property lost, damaged, or destroyed during World War II. He would do so according to the provisions of the conditions under which the trust would be established.

The trustees of the $5,000,000 trust would distribute compensation in a manner consistent with the purposes of this title. Appropriations of $1,400,000 would be authorized to compensate the Aleuts for damaged or destroyed church property.

Section 305(d) would provide for administrative and legal expenses. The Secretary of the Interior would reimburse the Administrator, no less often than annually, for carrying out its responsibilities under this title. Accordingly, the Secretary would pay for reasonably and necessary administrative and legal expenses incurred by the Administrator. The text of the legislation would direct that sums be authorized to be appropriated to the Aleutian and Pribilof Islands Restitution Fund as would be necessary to carry out the administrative and legal expenses mentioned above.

Individual Compensation of Eligible Aleuts

Sections 306(a) defines the criteria for payments to eligible Aleuts. The Secretary of the Interior would make per capita payments out of the Fund to eligible Aleuts for uncompensated personal property losses, and for other purposes. Within one year after this legislation became law the Secretary would pay $12,000 to each eligible Aleut.

The Attorney General of the United States would be directed to provide reasonable assistance in locating eligible Aleuts residing outside the affected Aleut villages, if he received a request to do so from the Secretary of the Interior. The Secretary would have the

option of making that request from this legislation. In such assistance the Attorney General could use available facilities and resources of the International Committee of the Red Cross and other organization. Further, the Secretary of the Interior could request the help of the Administrator in identifying and locating eligible Aleuts pursuant to this section.

Aleuts receiving payments under this subsection would not have to consider them subject to Federal taxes. Nor would the payments have to be taken into account as income or receipts, if those Aleuts were trying to become eligible for any benefits or assistance provided under Federal, State, or local program financed in whole or in part by Federal funds.

Section 306(b) would authorize the appropriation of necessary funds to provide individual compensation for eligible Aleuts.

The Attu Island Restitution Program

Under Section 307(a) the legislation would begin its definition of the Attu Island Restitution Program by identifying the wilderness designation that applies to the program. Subsection (a) states that the public lands on Attu Island, Alaska, within the National Wildlife Refuge System, in accord with the Wilderness Act. To make restitution for the loss of traditional Aleut lands and village properties on Attu Island lands, while preserving the present designation of Attu Island lands as part of the National Wilderness Preservation System, compensation to the Aleut people in lieu of Attu Island conveyance would be provided in accordance with this section.

Subsection (b) of Section 307 would make the acreage determination. No later than 90 days after this title became law the Secretary of the Interior would determine the total acreage of land on Attu Island, Alaska, that was subject to traditional use by the Aleut villagers of that island for subsistence and other purposes. When making the acreage determination the Secretary would establish a base acreage of not less than 35,000 acres within the part of eastern Attu Island traditionally used by the Aleut people. Further, from the best available information including information that representatives of the Aleut people may submit, the Secretary would identify any such additional acreage on Attu Island that the Aleut people made traditional use of. Base acreage and such additional acreage would comprise the aggregate acreage determination, serving as the basis for Federal compensation to the Corporation under the Attu Island Restitution Program. The law would direct the Secretary of the Interior to notify the Corporation of the results of the aggregate acreage determination.

Section 307(c) would spell out the valuation of the Attu Island Restitution Program. No later than 120 days after this title was enacted, the Secretary of the Interior would determine the value of the aggregate Attu Island acreage. There would be a couple of exceptions. No tract of acreage within the determination would be valued at less than $350 or more than $500 an acre. Also, the total value of all acreage in the determination would not exceed $15,000,000.

When making the valuation, the Secretary of the Interior would consider several factors as he considered appropriate, including fair

market value, environmental and public interest value, and established precedents for the valuation of comparable wilderness lands in the State of Alaska. The legislation would direct the Secretary to promptly notify the Corporation of the valuation, which shall constitute a final determination of compensation, unless appealed within 30 days by the Corporation. In the event of such an appeal, the Secretary would within 30 days review the valuation in light of the appeal, and issue immediately afterwards a final determination of the total value of that acreage determined to be subject to traditional use. The Secretary's final determination would be the amount payable as compensation to the Corporation for the Aleuts' loss of ownership of Attu Island.

Section 307(d) describes "in lieu compensation payment." Under it the Secretary would pay the full amount of compensation, as determined by the valuation procedures for the Attu Island Program, to the Aleut Corporation. The payment would be made in lieu of any conveyance of Attu Island as recommended by the Commission on Wartime Relocation and Internment of Civilians.

As for Section 307(e), the conveyance of the traditional Aleut village site on Attu Island would be provided for. The Secretary of the Interior could make that conveyance pursuant to the authority provided by the Alaska Native Claims Settlement Act. There would be one exception. Following the date of enactment of this section, no site on Attu Island, Alaska, other than the traditional Aleut village site, would be conveyed to the Aleut Corporation under the Alaska Native Claims Settlement Act.

Section 307(f), the last part of the Attu Island Restitution Program, would authorize $15,000,000 to the Secretary of the Interior to carry out the Program.

Compliance with the Budget Act

Section 308 states that under this title no authority to enter into contracts or to make payments would be effective, except to the extent or in such amounts as are provided in advance in appropriations acts. Any provision of this title which authorized the enactment of new budget authority, directly or indirectly, would be effective only after September 30, 1988.

Separability of Provisions

Under Section 309, if any provision of this title or the application of any of its provisions to any person or circumstance were held invalid, the remainder of the title and the application of that provision to persons or circumstances other than those to which it was held invalid would not be affected.

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